

IV. REMARKS

Reconsideration of this application is respectfully requested in view of the amendments to the claims and the remarks that follow.

Claim 18 has been amended to more clearly define applicants' invention, and support for these claim amendments can be found, for example, in paragraph [0021] of the Specification (all references to the Specification herein being to the numbered paragraphs of the application as published on September 6, 2007 and assigned Pub. No. US 2007/0207366).

In addition, currently withdrawn claims 26, 30, and 33 have similarly been amended to more clearly define applicants' invention. Support for these claim amendments is also found, for example, in paragraph [0021] of the Specification.

Election/Restriction

The Examiner has acknowledged the election with traverse of Invention I, claims 18-25. Moreover, the basis of the traversal, that the amended claims all had the technical features that defined a contribution over the prior art Rock application US Pub. No. 2003/0124405, was found to be persuasive.

However, it is now asserted that the amended claims do not all have technical features that define a contribution over the prior art Gibb application Pub. No. 2003/0194595 ("Gibb"). Accordingly, the election requirement has still been deemed proper and made final.

Withdrawn claims 26, 30, and 33 have been amended in a similar fashion as claim 18, so that all of the these claims include common technical features that define

over the prior art, including the newly cited Gibb reference. Accordingly, the withdrawal of claims 26-36 should be reversed and those claims allowed.

Claim Rejections – 35 USC §102

Claims 18 and 20-25 have been rejected under 35 USC §102 as being anticipated by Gibb. With regard to claim 18, it is indicated in the Office Action that Gibb discloses a separator for electrochemical systems, comprising: a first conductive plate having a face (first flow field plate 17); and a second conductive plate have a face (second flow field plate 18); wherein each plate includes a series of projections extending outwardly therefrom; wherein each of the projections have a corresponding cavity defined on the opposite side thereof; wherein when the faces of the first and second plate are brought into an overlapping relationship, at least a subset of the cavities of the first plate engage a subset of the cavities of the second plate to provide at least one flow path between the first plate and the second plate (inner flow field channel 25); wherein the cavities of the first plate (21) are dissimilar in shape from the cavities of the second plate (24); and wherein the projections on the first plate are discrete and spaced from one another (referring to Fig. 5). It is asserted that the projections on the first flow field plate are discrete because they are spaced apart by outer channels 20.

The rejection is respectfully traversed. According to the MPEP, “[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” See MPEP 2131 (quoting *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631). Put another

way, for there to be anticipation, "the identical invention must be shown in as complete detail as it is contained in the ...claim." *Richardson v. Suzuki Motor Co.*, 9 USPQ 2d 1913, 1920 (Fed Cir. 1989).

Amended claim 18 defines, *inter alia*, a separator "wherein the projections and corresponding cavities on the second plate form at least one connecting passage between discrete and spaced apart projections and corresponding cavities on the first plate."

In contrast, Gibb is devoid of any suggestion for providing any connecting passage formed in one plate between discrete cavities on the other plate, as defined in claim 18. In fact, it is clear that Gibb suggests only a device wherein "each inner channel of the second flow field plate overlap[s] an inner channel of the first flow field plate essentially along its entire length," (paragraph [0015]) and "the term 'overlapping' is defined to mean that each inner channel of the second plate is entirely contained within an inner channel of the first plate" (paragraph [0013]).

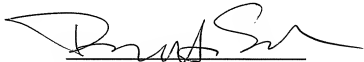
As Gibb fails to show the identical invention in as complete detail as it is contained in claim 18, Gibb fails to anticipate claim 18 and the rejection of claims 18 and 20-25 must be withdrawn.

Furthermore, as noted above, withdrawn claims 26, 30, and 33 have been amended in a similar fashion as claim 18, so that each also requires one or more cavities on the second plate forming at least one connecting passage between discrete and spaced apart cavities on the first plate. Since all of these claims include the common technical features that define over the prior art, the withdrawal of claims 26-36 should be reversed and the claims allowed.

Conclusion

For all reasons discussed herein, applicants submit that the current application is now in condition for allowance. A timely action to that end is courteously solicited. If the Examiner would prefer language different from that proposed by applicant, a telephone call to applicant's attorney is requested to expedite prosecution.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Donald A. Schurr', written over a horizontal line.

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